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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,278	07/18/2003	Anne E. Spinks	99-113-US-02	2410

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EXAMINER	
LONEY, DONALD J	
ART UNIT	PAPER NUMBER
1772	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/623,278	SPINKS, ANNE E.	
	Examiner	Art Unit	
	Donald Loney	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *15 and 16* is/are allowed.

6)☒ Claim(s) *1-9,12-14 and 18-20* is/are rejected.

7)☒ Claim(s) *10,11 and 17* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Baratuci et al (5851609).

Baratuci et al teaches an adsorbent composition comprising 5-15 wt % amorphous polyalphaolefin and 1-50% of a moisture adsorbent. Refer to column 5, lines 12-32 and column 6, line 68. The composition is free of a butyl rubber or polyisobutylene film forming agent since in column 5, lines 56-59 Baratuci et al discloses that other polymers instead of these may be included. Therefore, there would be no a butyl rubber or polyisobutylene film forming agent as recited in the claim.

3. Claim 1, 2, 7, 12, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Paeglis et al (5569516).

Paeglis et al discloses a composition comprising up to 40 % polyalphaolefin and 10-80% adsorbent per claims 1 and 14. The adsorbent is for volatile organic materials (i.e. oils) per claims 1 and 7. Refer to column 5, lines 42-46 and column 8, lines 27-40. The examiner deems the polyalphaolefin as being inherently amorphous due to its low degree of crystallinity. The crystallinity is disclosed as low as 2% at column 5, lines 61 through column 6, line 16. The applicant indicates that amorphous is a low degree of crystallinity at page 4, line 16, with no numerical guidance as what "low" is. The examiner has cited US Pat. No. 4614778 to Kajiura et al as a teaching reference as to less than 40% crystallinity is considered low and amorphous alpha-olefin copolymers (see column 8, lines 4-9). With regards to claim 2, see column 5, lines 39-46. With regards to claims 12 and 13, drawn to "consisting essentially of", they are included since the applicant from page 2, line 21 of the specification is attempting to exclude polyisobutylene and butyl rubber from the recited composition using said limitation. Also, from MPEP section 2111.03, for the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See, e.g., PPG, 156 F.3d at 1355, 48 USPQ2d at 1355. Any additional materials in the prior art must be shown to materially effect the composition due to the "consisting essentially of "recitation, which allows other materials not materially affecting the composition.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 3-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paeglis et al.

The primary reference teaches the invention substantially as recited except for the flow rates per claims 3-6. See the 35 U.S.C. 102 rejection above. Paeglis et al does disclose flow rates from a different test at column 6, lines 64-67.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to Paeglis et al to form the composition with flow rates as recited motivated by the fact one would use what ever flow rate is need for a particular application. A particular application disclosed in Paeglis et al is for use in glazings (column 8, lines 61-66), which the same field the applicant uses the recited low flow melt composition in. With respect to claims 8 and 9, one would be motivated to form the

composition of the recited properties since Paeglis et al discloses the composition being used in the same filed as the applicant (i.e. glazings as indicated above).

7. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paeglis et al in view of the applicants discussion of the prior art ADPA.

The primary reference teaches the invention substantially as recited except for the specific adsorbents recited in claims 18-20.

The ADPA on page 5, lines 10-25 disclose that the adsorbents are commercially available.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Paeglis et al to substitute one adsorbent for another motivated by the fact Paeglis et al discloses absorbents included in the composition and the ADPA teaches the specific ones recited are commercially available.

Allowable Subject Matter

8. Claims 15 and 16 are allowed.

9. Claims 10, 11 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach disclose or fairly suggest a glazing unit containing the seal of a composition as recited in claims 10 and 15 or a composition "consisting of" the

components of clam 17. The examiner is relying on pages 6-12 of the applicant's arguments filed November 27, 2006.

Response to Arguments

11. Applicant's arguments filed November 27, 2006 have been fully considered but they are not persuasive. The applicant argues that Paeglis et al fail to teach an "adsorbent composition" containing adsorbents of either moisture or volatile organics. However as indicated above Paeglis does teach an adsorbent for oils which are volatile organics. The recitation of an "adsorbent composition" does not distinguish the composition from the prior art. With regards to functional recitations that the composition adsorbs from the atmosphere to which it is exposed, the panel formed of the composition is part of the atmosphere it is exposed to.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Donald Loney
Primary Examiner
Art Unit 1772

DJL:D.Loney